

# HOUSE . . . . . No. 2852

By Mrs. Paulsen of Belmont, petition of Anne M. Paulsen and others for legislation to establish a department of home and community-based services. Public Health.

## The Commonwealth of Massachusetts

### PETITION OF:

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In the Year Two Thousand and Five.

AN ACT ESTABLISHING A NEW DEPARTMENT OF HOME AND COMMUNITY-BASED SERVICES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. The General Laws are amended by adding after
- 2 Chapter 19D the following new chapter:—
- 3 Chapter 19E: Department of Home and Community-Based
- 4 Services

5 Section 1. There shall be a department of home and commu-  
6 nity-based services, in this chapter called the department, and a  
7 commissioner of home and community-based services who shall  
8 have and shall exercise exclusive supervision and control of the  
9 department. All action of said department shall be taken by the  
10 commissioner, or under the direction of said commissioner, by  
11 such agents or subordinate officers as he shall determine.

12 1) The department shall provide services to all eligible people  
13 with disabilities who are currently not eligible for services from  
14 the following agencies of the commonwealth under MGL:  
15 Chapter 19 (department of mental health), 19A department of  
16 elder affairs), 19B (department of mental retardation), and  
17 Chapter 6, Section 78 (Massachusetts Rehabilitation Commission  
18 Statewide Head-injury Program, Massachusetts Rehabilitation  
19 Commission Supported Living, Massachusetts Commission for  
20 the Blind Home Care Services).

21 (2) Adult citizens with disabilities, progressive neurological  
22 disorders or chronic disabling conditions shall be eligible for serv-  
23 ices from the department as defined in Chapter 6A, Section 16F  
24 called “flexible supports” and may also include medical assis-  
25 tance, adult day care, adult foster care, personal care services,  
26 respite facilities, or residential services.

27 (3) The department of home and community based services  
28 shall be authorized to provide services through any corporation  
29 doing business with the commonwealth including but not limited  
30 to independent living centers, aging services access points, com-  
31 munity residential service providers, and home medical services.

32 (4) The department shall assure that all citizens with disabilities  
33 receiving services from the department and other agencies of the  
34 commonwealth, retain the right of free choice in planning and  
35 managing their lives. The department shall have the authority to  
36 promulgate guidelines and regulations insuring client-choice  
37 models of service be implemented and assured.

38 (5) the department shall act to assure that health and social  
39 services be available that:

40 (a) Allow adult citizens with disabilities, progressive neurolog-  
41 ical disorders, or chronic disabling conditions to live indepen-  
42 dently at home or with others as long as the citizen desires  
43 without requiring inappropriate or premature institutionalization.

44 (b) Encourage, by expansion of existing interagency agree-  
45 ments and developing new interagency agreements as allowed by  
46 federal law and regulation, the delivery of state-funded services  
47 for adult citizens with disabilities, progressive neurological disor-  
48 ders, or chronic disabling conditions from all agencies of the  
49 Commonwealth of Massachusetts.

50 (c) Ensure the public and private development of suitable  
51 housing for citizens with disabilities, universally designed and  
52 located consistent with their special needs and available at costs  
53 they can afford, including a requirement of 10% units be designed  
54 for people with disabilities in any state-funded projects.

55 (d) Involve citizens with disabilities in the decision-making  
56 process for all programs affecting their lives.

57 (7) There shall be a home and community-based advisory  
58 council composed of thirteen members: One appointed by the  
59 President of the Senate, one appointed by the Speaker of the  
60 House, one appointed by the Governor, one appointed by the  
61 Attorney General, four appointed by the commissioner of the  
62 department of home and community-based services, one by the  
63 statewide independent living council, one by Massachusetts home  
64 care association, one by the Disability Law Center, one by the  
65 Disability Policy Consortium, one by the Amyotrophic Later Scle-  
66 rosis Association.

1 SECTION 2. Definitions.

2 Section 1. When used in this chapter, unless the context other-  
3 wise requires, the following terms shall have the following mean-  
4 ings:

5 “Applicant”, any person applying to the department for serv-  
6 ices.

7 “Assistance with activities of daily living”, physical support,  
8 aid or assistance with bathing, dressing/grooming, ambulation,  
9 eating, toileting or other similar tasks.

10 “Eligibility” shall be defined as a person in need of assistance  
11 with two activities of daily living.

12 “Flexible supports”, support services, subject to appropriation  
13 and consistent with each department’s authority and mandate for  
14 serving people with disabilities and chronic illnesses, may  
15 include, but not be limited to:

- 16 (1) coordination and facilitation of support services;
- 17 (2) counseling and information;
- 18 (3) facilitation of self-help groups;
- 19 (4) home adaptations;
- 20 (5) assistive technology devices and services and support serv-
- 21 ices to facilitate full communication and language access;
- 22 (6) financial assistance;
- 23 (7) assistance in caregiving including: respite, day care, after
- 24 school care and personal care or personal care surrogacy, when
- 25 necessary;
- 26 (8) adaptive equipment and clothing;
- 27 (9) medical services;
- 28 (10) transportation, including vehicle modification;
- 29 (11) recreation and leisure activities;
- 30 (12) life planning;
- 31 (13) special dietary supplements and medical equipment and
- 32 maintenance;
- 33 (14) mental health treatment; and
- 34 (15) advocacy training.
- 35 Section 6A, 16F amended to include “department of home and
- 36 community-based services”.